

AUG 17 2006

PTO/SB/97 (08-03)

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Certificate of Transmission -- Docket PI1220 US DIV (1 page)

Response to Office Action (3 pages)

Office Communication (3 pages)

Accompanying Response Information (6 pages)

Total Pages = 13 pages

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AUG. 17. 2006 12:23PM

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NO. 497 P. 2

AUG 17 2006

Appl. No. 10/659,644
Request for Reconsideration of Petition
Reply to Petition Decision mailed on June 29, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Ronald Lee Amey et al.

Application No.: 10/659,644

Filed: September 10, 2003

Title: Melt-Sprayed Curing Agent Powder
and Powder Coating Compositions
Made Therefrom

Group Art Unit: 1713

Examiner: William K. Cheung

Attorney Docket: PI1220 US DIV

Confirmation No.: 3665

**REQUEST FOR RECONSIDERATION OF PETITION
TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181
BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE**

Via Facsimile No. 571 273 8300

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Petition Decision mailed June 29, 2006, Applicants respectfully request reconsideration of the Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181 based on failure to receive Notice of Allowance, and respectfully request that the holding of abandonment of the application be withdrawn based on the additional facts set forth herein.

BACKGROUND

Applicants filed this application on September 10, 2003. On April 15, 2004, a Notice of Allowance was mailed, giving Applicants until July 15, 2004 to pay the Issue and Publication Fees of \$1630.00. On August 17, 2004, a Notice of Abandonment of the Application was mailed due to failure to timely pay the Issue and Publication Fees.

On October 28, 2004, Applicants submitted a Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181 based on failure to receive Notice of Allowance. Based on examination of the electronic file history at the USPTO's PAIR portal, the

1 of 3

08/18/2006 WADDELIR3 00000004 503223 10659644

01 FC:1501 1400.00 DA
02 FC:1504 300.00 DA
03 FC:8001 30.00 DA

USPTO apparently did not receive this transmission. On May 1, 2006, Applicants submitted a status inquiry and re-transmitted the October 2004 Petition to Withdraw Holding of Abandonment. According to the USPTO's PAIR portal, these documents were entered into the file history on May 2, 2006, along with a two page Miscellaneous Internal Document. On June 6, 2006, Applicants again submitted a status inquiry, which does not appear to have been received by the USPTO. On June 29, 2006, the USPTO mailed a Petition Decision dismissing the petition to withdraw holding of abandonment.

On September 21, 2005, INVISTA advised the USPTO of a change of address and power of attorney (from E.I. duPont de Nemours and Company to INVISTA) for at least some of INVISTA's US patent applications under prosecution, including this application (PI1220 US DIV). It was later determined that the USPTO did not make this change of address or power of attorney for this application, although the assignment from DuPont to INVISTA North America S.à r.l. of the parent application, PI1220 US NA (now US 6,677,484) was made on May 27, 2004. A copy of the Patent Assignment information available at the USPTO website for US 6,677,484 is attached. As the divisional application relies on the parent for its assignment, Applicants respectfully submit that this divisional application is assigned to INVISTA North America S.à r.l.

The undersigned attests to the fact that a search of the file jacket and the docket records indicates that the Notice of Allowance was never received. A copy of the docket record where the non-received Notice of Allowance would have been entered and docketed is attached.

The Petition Decision mailed June 29, 2006 notes that the USPTO requires the docket records of E.I. du Pont de Nemours and Company, and evidence that E.I. du Pont de Nemours and Company and INVISTA North America S.à r.l. are the same entity and maintain the same docket records. Applicants respectfully submit that E.I. du Pont de Nemours and Company and INVISTA North America S.à r.l. are separate entities and do not maintain the same docket records, therefore the docket records of E.I. du Pont de Nemours and Company cannot be submitted by INVISTA North America S.à r.l.

The Petition Decision mailed June 29, 2006 notes that while the petitioner authorized the charging of the issue and publication fees (in the petition of October 28, 2004), the credit card submitted was expired (when the fees were attempted to be charged on May 2, 2006). Applicants respectfully note that the Status Inquiry of June 6, 2006 indicated that if the Petition to Withdraw was accepted, the credit card number

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AUG 17 2006

Appl. No. 10/659,644
Request for Reconsideration of Petition
Reply to Petition Decision mailed on June 29, 2006

previously submitted should not be used; instead, the use of Deposit Account No. 50-3223 in the name of INVISTA North America S.à r.l. was authorized.

With this request for reconsideration of the petition to withdraw holding of abandonment, Applicants each submit a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address. Applicants appoint the practitioners associated with Customer Number 43693 and change the correspondence address for the application to that associated with Customer Number 43693.

CONCLUSION

Based on the evidence presented above, Applicants respectfully request that the Notice of Abandonment be withdrawn and that the Application be reinstated. Applicants authorize the Commissioner to deduct the Issue and Publication fees of \$1630.00 from Deposit Account No. 50-3223 in the name of INVISTA North America S.à r.l. It is believed that no fees are due upon filing this reconsideration of Petition. If additional fees are determined to be due, Applicants authorize the Commissioner to deduct those fees from Deposit Account No. 50-3223.

Dated: August 17, 2006

Respectfully submitted,



Anne I. Breikss, Ph.D.
Agent for Applicants
Reg. No. 55,023
INVISTA S.à r.l.
(302) 683-3290

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P. 5



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JUL 10 2006



Action Required

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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JUN 29 2006

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In re Application of
Amey et al.
Application No. 10/659,644
Filed: September 10, 2003
Attorney Docket No. PI1220USDIV

ON PETITION

Response?
8/29/06

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 2, 2006.

The petition to withdraw the holding of abandonment is Dismissed.

GET NOT

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which were mailed April 15, 2004. The Notice of Allowance and Issue Fee (s) Due set a three (3) month period for reply. Accordingly, this application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 17, 2004.

Petitioner asserts that the Notice of Allowability mailed April 2, 2004 was never received. In support, petitioner has provided a copy of the docket record where the Notice of Allowance would have been entered had the Notice been received.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office

Rec'd
7/18/06

Application No. 10/659,644

Page 2

communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹ The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

Petitioner's evidence has been considered but deemed as unpersuasive. A review of the record shows the Notice of Allowance and Fee(s) Due was mailed to the correspondence address of record. The correspondence address of record continues to be the following:

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805.

A review of the petition shows that the address provided on the petition differs from the correspondence address of record. The petition address is listed as follows:

Invista North America S.A. R.L
4417 Lancaster Pike
Legal-Bldg. 722/WR1032
Wilmington, DE 19850.

As such the record is not clear that the Notice of Allowance and Fee(s) due was not received due to a failure to change the correspondence address of record. The address differs enough that it is conceivable that correspondence addressed with the correspondence address of record would not be delivered. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

¹M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Application No. 09/456,647

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The Office requires the docket records of E I du Pont De Nemours and Company. To the extent E I du Pont De Nemours and Company and Invista North America S.A. R.L. are the same entity and maintain the same docket records a statement and evidence to the effect should be provided.

Petitioner authorized the charging of the issue and publication fees. However, the fees could not be charged because the credit card submitted was expired.

Further it is noted, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Invista North America S.A. R.L.
4417 Lancaster Pike
Legal-Bldg. 722/WR1032
Wilmington, DE 19850



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Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE: Results display only for issued patents and published applications.
For pending or abandoned applications please consult USPTO staff.

Total Assignments: 3

Patent #: 6677484 **Issue Dt:** 01/13/2004 **Application #:** 09628993 **Filing Dt:** 07/31/2000

Inventors: Ronald Lee Amey, George Alan Schurr

Title: MELT-SPRAYED CURING AGENT POWDER COATING COMPOSITIONS MADE THEREFROM

Assignment: 1

Reel/Frame: 011399/0396

Recorded: 12/18/2000

Pages: 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: AMEY, RONALD LEE

Exec Dt: 07/28/2000

SCHURR, GEORGE ALAN

Exec Dt: 07/28/2000

Assignee: E. I. DU PONT DE NEMOURS AND COMPANY

1007 MARKET STREET

LEGAL PATENTS

WILMINGTON, DELAWARE 19898

Correspondent: E. I. DU PONT DE NEMOURS AND COMPANY

GERALD E. DEITCH

LEGAL-PATENTS

1007 MARKET STREET

WILMINGTON, DELAWARE 19898

Assignment: 2

Reel/Frame: 015286/0708

Recorded: 05/27/2004

Pages: 25

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: E. I. DU PONT DE NEMOURS AND COMPANY

Exec Dt: 04/30/2004

Assignee: INVISTA NORTH AMERICA S.A.R.L.

4417 LANCASTER PIKE

INTELLECTUAL PROPERTY RECORD CENTER-722/032

WILMINGTON, DELAWARE 19805

Correspondent: INVISTA NORTH AMERICA S.A.R.L.

DEANNA M. MCGREGOR

INTELLECTUAL PROPERTY CENTER-722/032

4417 LANCASTER PIKE

WILMINGTON, DE 19805

Assignment: 3

Reel/Frame: 015592/0824

Recorded: 06/23/2004

Pages: 77

Conveyance: SECURITY INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: INVISTA NORTH AMERICA S.A.R.L. F/K/A ARTEVA
NORTH AMERICA S.A.R.

Exec Dt: 04/30/2004

Assignee: JPMORGAN CHASE BANK, N.A.

P.O. BOX 2558

HOUSTON, TEXAS 77252-2558

Correspondent: FEDERAL RESEARCH CORPORATION
PENELOPE AGODOA
1030 15TH STREET, NW
SUITE 920
WASHINGTON, DC 20005

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AUG 17 2006

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**REVOCATION OF POWER OF
ATTORNEY WITH
NEW POWER OF ATTORNEY
AND
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	10/659644
Filing Date	September 10, 2003
First Named Inventor	Ronald L. Amey et al.
Art Unit	1713
Examiner Name	William K. Cheung
Attorney Docket Number	PI1220USDIV

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint the practitioners associated with the Customer Number:

43693

☒ Please change the correspondence address for the above-identified application to:

☒ The address associated with
Customer Number:

43693

OR

☐ Firm or
Individual Name

Address

City

State

Zip

Country

Telephone

Email

I am the:

☒ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature

Name

Ronald L. Amey

Date

JULY 26, 2006

Telephone

302-731-6876

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**REVOCATION OF POWER OF
ATTORNEY WITH
NEW POWER OF ATTORNEY
AND
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	10/659644
Filing Date	September 10, 2003
First Named Inventor	Ronald L. Arney et al.
Art Unit	1713
Examiner Name	William K. Cheung
Attorney Docket Number	PI1220USDIV

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint the practitioners associated with the Customer Number:

43693

☒ Please change the correspondence address for the above-identified application to:☒ The address associated with
Customer Number:

43693

OR

☐ Firm or
Individual Name

Address

City

State

Zip

Country

Telephone

Email

I am the:

☒ Applicant/Inventor.☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)**SIGNATURE of Applicant or Assignee of Record**

Signature

Name

George Alan Schurr

Date

July 26, 2006

Telephone

302 731 5539

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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